

The complaint

Mr M complains about the suitability of the advice provided to him by Succession Wealth Management Ltd trading as Succession Wealth (“SWM”) in relation to the Woodford Equity Income fund (the WEIF).

What happened

Your text here In 2016 Mr M met with a firm, that later became part of SWM, to discuss his plans for retirement. In January 2017 he was advised to transfer his defined benefits pension scheme to a Collective Retirement Plan – a form of personal pension. He was recommended a portfolio of investments based on his assessed balanced attitude to risk. Mr M accepted the advice and invested in the recommended portfolio with SWM to provide an ongoing advisory service in respect of the portfolio. He complained to SWM following the suspension and subsequent winding up of the fund by Link, the Authorised Corporate Director of the fund.

SWM didn’t uphold the complaint. In short it made the following points:

- He was recommended a portfolio in line with his balanced risk and the WEIF was only 4.5% of this and there is no evidence the original investment in the WEIF was unsuitable.
- Mr M was provided with the fund fact sheets confirming the fund objectives, investment policy, risk and reward profile, charges for the fund, past performance.
- Mr M took an active role in his investment strategy and carried out a lot of research on investment philosophies and wanted to increase the risk for the uncrystallised portion of his pension pot.
- In addition to regular contact between Mr M and his planners he had annual reviews of the portfolio which considered the general ongoing suitability of the investment strategy with a number of recommendations made each of which was subject to Mr M’s scrutiny and own research.
- Despite the recommendations to change strategy there was no clear indication that there was a problem with the WEIF such that a recommendation should have been made to switch out of it.

One of our investigators considered the complaint but didn’t think it should be upheld. He said the portfolio SWM had recommended to Mr M was suitable as it closely aligned with the target portfolio for an investor with a balanced attitude to risk and Mr M had the capacity to take such a risk. The investigator said that the WEIF carried a higher risk than Mr M’s overall attitude to risk but as it only made up 4.5% of his portfolio and given the overall spread of assets in the portfolio its inclusion didn’t make the recommended portfolio unsuitable.

The investigator also said that Mr M’s attitude to risk and capacity to take risk didn’t fundamentally change over time and he had seen nothing to suggest his financial plans had

changed until he explored splitting his investment strategies between the crystallised and uncrystallised pots in his pension. The investigator said that the WEIF had performed poorly but that of itself didn't make it unsuitable for the portfolio.

The investigator noted there had been negative public commentary about the WEIF and considerable outflows from the fund but said that details of the problem with liquidity wasn't publicly known at the time and it wasn't reasonable to expect SWM to have advised based on public commentary and speculation.

The investigator said that the actions by SWM in 2019 showed that the investments it favoured had changed as they recommended different investments not including the WEIF when Mr M asked for a split investment strategy. He said that SWM didn't know the WEIF was going to be suspended so couldn't know there was a limited time for Mr M to act on its advice.

Mr M didn't agree with the investigator. In summary he made the following points:

- He has no recollection or evidence that he was informed of the risks associated with the investment in the WEIF nor was he told there was risk of absolute loss of his money invested in the fund.
- He has detailed the clear indications of problems with the WEIF such as the events in March 2019 when the fund swapped £73 million of holdings with Woodford Patient Capital IT leading to 17.9% of the remaining portfolio being in unquoted companies as well as it listing unquoted companies offshore to stay within the FCA limit of 10% of such companies.
- The large outflows suggests other investors and finance professionals identified issues and it is incorrect to say the suspension couldn't have been pre-empted.
- What evidence is there that SWM kept the WEIF under review.
- SWM didn't provide the agreed level of service and neither was he provided with suitable ongoing advice.
- The points that the investigator considered relevant don't include all the points he considers relevant as detailed in his submission to our service.
- He has raised a separate complaint to SWM about its overall advice but that isn't the scope of this complaint, which is focussed only on the WEIF.
- His attitude to risk has changed since 2016, contrary to what the investigator stated.
- There were fundamental issues with the fund as detailed by him which issues were identified by others.
- His understanding is that there is no evidence of SWM carrying out due diligence on the WEIF or monitoring the fund.
- SWM could reasonably be expected to have monitored the investment in the WEIF and if they had done so competently they are likely to have identified the same concerns identified by others as indicated by the considerable outflows.
- He wanted more time to consider the overall split strategy that SWM put forward but in terms of him wanting time to consider the crystallisation of his losses in the WEIF,

this is incorrect. What he wanted was for SWM to advise on whether he should crystallise the losses, as if it expected the fund to recover that wouldn't make sense. SWM made no comment on this.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Your text here In doing so, I've taken into account relevant law and regulations; relevant regulators' rules guidance and standards; codes of practice; and, where appropriate, what I consider was good industry practice at the relevant time. But I think it's important to note that while I take all those factors into account, in line with our rules, I'm primarily deciding what I consider to be fair and reasonable in all the circumstances of the case.

It is for me to decide what weight to give evidence a party relies on and where there is a dispute about the facts my findings are made on a balance of probabilities – what I think is more likely than not.

The purpose of my decision isn't to address every point raised and if I don't refer to something it isn't because I've ignored it but because I'm satisfied I don't need to do so to reach what I think is the right outcome. Our rules allow me to do this, and it simply reflects the informal nature of this service as a free alternative to the courts. I make this clear in particular in this complaint because Mr M has taken issue with the investigator not addressing points that he had raised.

I note that Mr M has said that he has raised a separate complaint about the suitability of the overall advice provided by SWM and that this complaint is only about the WEIF. I acknowledge that his initial letter of complaint of 30 April 2020 specified his complaint as being about the advice received in respect of the WEIF. And whilst he didn't pursue that complaint at the time he subsequently raised a complaint with SWM about the service received from it as regards the WEIF and the failure to warn him of the risk to his investment in the fund.

However, whilst I acknowledge Mr M has made specific reference to the ongoing advisory service provided by SWM in considering, I have an inquisitorial remit that means I can look beyond the specific matters raised by a complainant and determine the specific nature of the complaint. In considering whether SWM failed to provide the service it should have done and whether it should have advised Mr M to switch out of the WEIF, it is in my view appropriate to consider whether the recommended portfolio was suitable in the first place. I think it is worth noting in this regard that in discussing the complaint with the investigator Mr M said that whilst he wasn't focussing on this, it was questionable whether the WEIF should have been included in his portfolio originally. So he did in any event specifically raise the suitability of the original portfolio in any event.

Suitability of the recommended portfolio

Mr M has suggested that the WEIF shouldn't have formed part of the original portfolio that was recommended to him in January 2017. This brings into question the suitability of the recommended portfolio - given he wasn't being advised as to the suitability of one particular fund but as to the mix of funds he should have within his portfolio.

Mr M argues the WEIF shouldn't have been part of his portfolio from the outset because Neil Woodford's management of the fund was different to his previous fund management. However, just because Neil Woodford's management of the WEIF may have differed from

his previous management this didn't make the fund unsuitable as one of 15 funds in the recommended portfolio. In my view it didn't mean that his previously successful fund management couldn't be taken into account by SWM when deciding that the WEIF should be included. I am also mindful that the fund formed part of numerous portfolios at that time and there was nothing to indicate there were any significant issues with the fund or Neil Woodford's management of it.

In terms of the overall suitability of the recommended portfolio, I am satisfied on the evidence provided in this complaint that the portfolio was suitable. In making that finding I have taken account of Mr M's attitude to risk being identified as 'Risk Group 4 – Balanced Investor' in the suitability report of 4 January 2017. I have seen nothing to suggest this was wrong. The report provides a description of a balanced investor with a suggested asset allocation of 50% defensive and 50% growth. The report set out 15 funds that had been selected in accordance with Mr M's attitude to risk to be invested in over a 12 month period. The suggested funds were identified overall as 49% defensive and 51% growth, so was in line with the asset allocation shown for a balanced investor.

The report also refers to Mr M's capacity for loss and there is no persuasive evidence he didn't have the capacity to deal with losses that could arise from investing in the recommended portfolio. I note that Mr M has said he doesn't recall being made aware of the risks associated with being invested in the WEIF but he was provided with the KIID and product literature for the fund as well as the other funds recommended. I don't think it was necessary for SWM to specifically refer him to the risk of loss of capital that could arise from investing in that particular fund.

In summary I have seen no persuasive evidence that the recommended portfolio wasn't suitable for Mr M or that the WEIF amounting to 4.5% of the recommended portfolio shouldn't have been included as one of the funds.

The ongoing advisory service

As well as providing the initial recommendation SWM agreed to provide an ongoing advisory service. In the terms of agreement between SWM and Mr M, under the heading 'Our Ongoing Service', it states:

"You will be proactively offered the opportunity to have meetings with us to discuss your financial planning arrangements. The frequency of these meetings will be agreed with you and will reflect the complexity of your financial affairs and your particular needs."

And:

"We will communicate on an adhoc basis with you when we become aware of any events or issues you should be aware of"

In accordance with the above terms the suitability report refers to formally reviewing the pension plan annually as well as having a meeting at the midpoint of the year. The report also refers to monitoring the funds within the portfolio on a daily basis and to proactively contacting Mr M if it believed any adjustments are necessary.

Having considered the evidence I am satisfied that SWM did generally comply with its obligations to him in respect of meeting with him to discuss his portfolio in accordance with what was agreed and his complaint isn't really about the arranged meetings but about SWM not proactively contacting him about the WEIF when issues arose with it.

Mr M has referred to others identifying the issues and the outflows from the fund from May

2017 through to the suspension of the fund in June 2019. He refers to other financial professionals deeming it appropriate to withdraw funds from the WEIF. However, whilst I acknowledge poor performance from 2017 as well as negative articles about the fund likely influenced investors to come out of the fund, that doesn't mean that everyone had to follow suit. In other words, just because other investors and finance professionals decided to get out of the fund doesn't provide evidence that SWM did anything wrong in not advising Mr M to follow suit. Whilst many investors had lost faith in the fund Neil Woodford's management of it this was by no means everyone and there were still a large number of investors and finance professionals who were still invested at the point the fund was suspended.

The ongoing advisory service didn't require SWM to inform Mr M whenever an issue arose with a fund in my view. It seems to me that it would only need to do so where it was going to advise him about doing something because of that issue, such as switching out of the fund. I have seen no evidence that SWM was of the view he needed to switch out of the WEIF before it was suspended because of the issues he has referred to. As such I am not satisfied that there was a failure by SWM to provide the ongoing service it had agreed to provide.

In short, I am not persuaded that SWM did anything wrong because it didn't contact Mr M about the issues he has referred to and advise him to switch out of the fund. Nor am I satisfied that the poor performance of the fund and the actions that Neil Woodford took as the fund manager meant SWM were bound to advise Mr M to get out of it.

The main issues that Mr M has pointed to arose in the months before suspension of the fund in June 2019. The poor performance of the WEIF was discussed in a meeting in February 2019 which led to SWM discussing with Mr M a new portfolio it was recommending to clients. There was a further meeting on 24 April 2019 and the notes of the meeting provided by SWM indicate Mr M discussed different investment strategies for his crystallised and uncrystallised funds. The notes of the meeting refer to him suggesting an increase in the risk profile for the uncrystallised funds to adventurous/moderately adventurous with a low cost passive approach with the investment strategy and the crystallised funds to be more in line with his attitude to risk with different funds for the respective pots.

SWM sent a revised cash flow spreadsheet to Mr M by email on 8 May 2019 setting out in brief the funds that each pot should be invested in. The adviser stated that if he was happy with the recommendations a full report would be sent or there could be further discussion by telephone or in a further meeting. The WEIF was suspended on 4 June 2019 before any decision had been made about what Mr M was going to do.

Given that in the months leading up to suspension of the WEIF SWM was in discussions with Mr M about changing the portfolio I wouldn't have expected SWM to have advised him to switch out of one specific fund at the time. Despite the issues with the WEIF Mr M has referred to, SWM couldn't reasonably have known that the suspension of the fund was imminent and that he needed to get out of it without delay such that it is reasonable to have expected it to have advised him to do so in the midst of an ongoing conversation about changing the whole portfolio. In the circumstances I am not satisfied that SWM failed to provide the ongoing advisory service it had agreed to provide because it didn't advise Mr M to switch out of the WEIF before it was suspended.

My final decision

I don't uphold this complaint for the reasons I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 November 2024.

Philip Gibbons
Ombudsman